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ATTACHMENT B

Affidavit of Stephen E. Siwek

**Economists Incorporated
Washington D.C.**

On behalf of

Telegate Inc.

March 2000

Affidavit of Stephen E. Siwek

I. Introduction

1. My name is Stephen E. Siwek. I am a Principal with the Washington D.C. based consulting firm of Economists Incorporated ("EI"). Economists Incorporated specializes in economic analysis of competitive issues that arise in antitrust reviews of corporate acquisitions, litigation and regulated industries. The firm has been involved in telecommunications issues since its inception in 1980.
2. My areas of specialization include the evaluation and assessment of damages in commercial litigation and cost and pricing analyses for regulated industries. I have testified as an expert witness in more than 60 regulatory proceedings in 22 states. A majority of these proceedings addressed cost and pricing issues for local telecommunications services. In recent years, I have represented major long distance carriers in state proceedings seeking to determine prices for the unbundled network elements that the long distance carriers and the competitive local exchange carriers wish to acquire from incumbent local exchange carriers ("ILECs"). My CV is included herewith as Attachment 1.
3. Telegate Inc. is the US subsidiary of Telegate AG, a German corporation founded in August 1996. The core business of Telegate AG is the provision of Directory Assistance ("DA") and other directory services such as call completion. Telegate Inc. now seeks to provide DA services here in the United States.
4. In this Affidavit, I will address three topics. First, I will describe the DA market in the United States and I will present an approximate and very conservative estimate of the likely size of that market. Second, I will comment on the likely

costs to implement competition in DA services in the United States. My comments will reference the cost and engineering conclusions that are set forth in more detail in the Affidavit of John Celentano. Third, I will present historical information from the mid-1980s relating to the ballot and allocation procedures that were considered by the FCC and implemented as part of the conversion process to equal access for interLATA calling services.

II. Directory Assistant Markets

5. Telegate AG offers telephone directory assistance services (national and international) throughout Germany under the number 11880. At the end of March 1999, Telegate operated six call centers providing DA services. In the first quarter of 1999, Telegate serviced 19.5 million callers and had a peak turnover of 300,000 calls per day. In addition to its core business of telephone DA, Telegate offers ancillary services such as access to service numbers, weather information and call completion. Telegate is committed to the development of its business as a general information provider and recently expanded into the nationwide provision of cinema, stock market and sports information.
6. Telegate's growth has been enabled by the actions of the telecommunications regulatory authorities in Germany. In Germany, the public telephone market was substantially liberalized as of January 1, 1998. As part of that process, in March 1997, the Federal Ministry for Post and Telecommunications ("BMPT") issued rules for the assignment of telephone numbers for DA providers. The rules allowed Directory Assistance providers to apply for DA numbers if they could demonstrate by way of detailed implementation plans, that they intended to operate competitive DA services. Telegate was assigned the number 11880 at a conference for directory number assignment in June 1997. Since October 1997, Telegate has activated this number on a nationwide basis throughout Germany.

7. Telegate was granted the number 11880 in June 1997. The calling number distribution policies of the German regulators clearly enabled Telegate to expand rapidly in the German market for DA services, because they put all DA providers on an equal competitive footing.¹ Unlike DTAG, however, Telegate still had to build out its network and develop brand awareness through a major marketing campaign.
8. Since the implementation of deregulation in Germany in January 1998, Telegate's growth has been dramatic. In the second quarter of 1998, Telegate reported quarterly calling volumes of 9.673 million calls, an annualized volume of 38.7 million calls. By the fourth quarter of 1998, Telegate's quarterly calling volume had risen to 16.612 million calls, an annualized volume of 66.5 million calls. And by the first quarter of 1999, Telegate's quarterly calling volume had reached 19.5 million calls for an annualized calling volume of 78 million calls.
9. Not surprisingly, Telegate's success has coincided with a steep reduction in the DA business of DTAG. In 1996, DTAG handled 574 million Directory Assistance calls.² In 1997, DTAG's DA calling volume was 568 million calls. In 1998 however, DTAG's DA calling volume fell by 162 million calls (28.5%) to an annual total of only 406 million DA calls. The competitive pressures in DA services that were brought to bear in 1998 have clearly had a substantial impact on DTAG's Directory Assistance business since then.

¹ DTAG currently uses 11833 for DA services in Germany. Prior to the introduction of competition, DTAG used 01188.

² [HTTP://www.telekom.de/English/Company/Inv-Rel](http://www.telekom.de/English/Company/Inv-Rel). Note: these DA calling volumes are telephony only.

10. To the best of my knowledge, such precise statistics on the DA calling volumes of the US ILECs are not publicly available. For this reason, (among others) it is not possible to draw exact parallels between the DA market in Germany and the DA market in the United States. Nevertheless, some rough comparisons between the two markets can be attempted using public data.
11. In 1997, DTAG served 45.2 million telephone lines in Germany while US LECs reported 194 million residential, business and special access lines.³ These figures would suggest that DTAG's customer base was about 23% of the US LEC customer base. However, this comparison would clearly fail to capture the fact that in the United States, calling volumes per subscriber for most telephone services are much higher than in Germany. In 1997, total originating local and toll calls in the US telecommunications industry reached 623 billion. In the same year, DTAG's total "national phone call volume" was 52.7 billion calls. Based on these figures, DTAG's telephone business was approximately 8.5% of the US wireline telecommunications industry in 1997.
12. If DTAG's telephone calling volume in 1997 was 8.5% of the US telephone industry's calling volume, then DTAG's 568 million DA calls in 1997 would translate into 6.682 billion DA calls in the United States. Assuming an average price per DA call of \$0.40 per call, these figures imply total US DA revenues in 1997 of \$2.67 billion. Assuming an extremely conservative annual growth rate of 4.0%, these figures suggest that the market for DA calls in the United States will reach, at a minimum, \$3.3 billion in 2002.⁴

³ The DTAG statistics reported here were taken from the DTAG website while the US figures can be found at Table 926 of the Statistical Abstract of the United States: 1999, page 583.

⁴ These figures omit any additional revenue from add-on services such as call completion and specialized information services such as cinema and sports information assistance.

13. However, there are several reasons to believe that these estimates are quite conservative. For example, the methodology described above does not consider wireless DA calling volumes and it also may understate international DA calling volumes as well. In a 1998 study, Mr. John Celentano, who has also filed an affidavit on behalf of Telegate, put the overall size of the US DA market (including wireless) at 8 billion calls and \$3.0 billion in 1997.⁵ Mr. Celentano also predicted a 9% annual growth rate in DA volume which would put the overall market for DA services in the United States at \$4.5 billion in 2002.⁶
14. An even more optimistic market forecast for DA was prepared by the noted research firm Frost and Sullivan ("F&S"). In a 1999 study F&S found that the total US DA market in 1997 was valued at \$3.32 billion and that it would grow to \$4.93 billion by 2002. Within the overall market, F&S identified three segments, each of which is expected to grow at an annual rate in excess of 7.0%. These three segments and their market value in 2002 are: (1) wireline - \$4.0 billion, (2) wireless - \$0.594 billion and, (3) Internet/Online - \$0.339 billion. The F&S study forecast particularly rapid growth, (in excess of 10% per year) in the wireless and Internet/Online segments. The F&S study also concluded that enhanced directory services will be increasingly demanded by both business and residential subscribers. In addition to call completion services, F&S predicted that DA providers will offer a variety of enhanced directory services such as reverse searches and movie listings in order to expand usage and to generate incremental revenue.
15. In order to see these figures in context, it is useful to consider the size (in 1997) of other telecommunications services for which public data are available. In 1997, for example, total revenues for all US satellite carriers were just over \$1 billion,

⁵ Celentano, John, *Nationwide Directory Assistance: A Sound Choice in the Competitive Cacophony*, X-Change, December 15, 1998, page 33.

⁶ *Id.*

or about one third the size of the US DA market in the same year.⁷ As another example, the entire US paging industry with revenues of \$2.86 billion in 1997 was smaller than the US market for DA services in the same year.⁸ Perhaps most tellingly, the total revenue from all competitors to ILECs in 1997 was smaller than the US DA market in the same year. In 1997, the reported revenue for CAPs, CLECs, local resellers, other local exchange carriers and shared tenant service providers combined was \$2.48 billion, or roughly 82% of the DA market in the same year.

III. Costs of Implementation

16. In this filing, Telegate is recommending a procedure for implementing DA competition that differs somewhat from the procedure used in Germany. One of the major differences between the telecommunications industry in the United States and in Germany is that in the United States, telephone subscribers have long familiarity with the idea of presubscribing to a given telecommunications provider. In long distance services, for example, a subscriber making an interexchange call is generally routed to his presubscribed interexchange call carrier without needing to remember and dial access codes or additional digits of any kind. Telegate seeks to introduce this kind of presubscription into the market for Directory Assistance services in the United States. Telegate proposes to make 411 a national gateway number for subscribers to reach the presubscribed DA carrier of their choice.
17. Telegate has investigated the technical feasibility of implementing DA presubscription on a nationwide basis in the United States. Among other things, Telegate has consulted with the major switch manufacturers in the United States in order to determine the most efficient way in which presubscribed DA

⁷ U.S. Census Bureau, Statistical Abstract of the United States: 1999, Table 925, Telecommunications Industry-Carriers and Revenues: 1993 to 1997.

⁸ *Id.*

provisioning can be achieved.⁹ On the basis of that research, Telegate now believes that presubscribed 411 can best be implemented using the Advanced Intelligent Network (AIN) concepts and features that already are in use in the ILEC telephone networks today. Through the use of Signaling System 7 ("SS7"), US telephone subscribers now make millions of credit card calls and receive untold numbers of Caller ID messages. These and other services are possible because telephone ratepayers have funded ILEC investments in AIN systems that can bring them about. The very same systems that are now in place can readily and economically be adapted to implement presubscription for DA services in the United States.

18. Many of the details that support Telegate's AIN solution for 411 presubscription are contained in the Affidavit of John Celentano that accompanies this filing. I have been asked by Telegate to review, in particular, the cost information developed in Mr. Celentano's Affidavit. My comments on these cost estimates comprise the remainder of this section of my Affidavit.
19. Telegate's proposed AIN solution assumes that US ILEC's are now widely connected to the national SS7 network and that they have generally upgraded their local systems with AIN version 0.1 software. According to Mr. Celentano, this assumption is verified by Nortel and Lucent. Mr. Celentano then makes certain assumptions as to the amount of incremental SS7 signaling traffic that might now be generated if presubscribed DA services using AIN were to be implemented nationwide. One of the basic assumptions made by Mr. Celentano is that calling demand for DA calls can be estimated at 5 DA calls per subscriber per month. This value can be compared to the implicit DA calling volumes that were assumed in the DA market projection that was presented earlier in this affidavit. On the basis of such a comparison, it appears that a figure of less than 4

⁹ Telegate's communications with Nortel Networks and with Lucent Technologies are described in the Affidavit of John Celentano.

DA calls per subscriber per month would have been more consistent with the DA calling volume data that I developed in the first section of this affidavit.¹⁰ Of course, a figure of less than 4 DA calls per subscriber per month would also have generated lower cost estimates than those presented by Mr. Celentano. Based on these considerations however, Mr Celentano's use of an estimate of 5 DA calls per subscriber per month is in my opinion, both reasonable and conservative.

20. Assuming that the ILECs have already deployed AIN 0.1 software, the major capital investment needed to implement DA presubscription is the investment needed to add incremental Signal Transfer Points ("STPs") and Service Control Points ("SCPs") that expand the signaling networks of the ILECs. Mr. Celentano bases his calculations on an assumed overall calling load of 1 billion DA calls per month. He estimates that this level of demand will require the addition of seven new STP pairs with associated SCPs that match the regional architecture of the STPs. In my opinion, the overall investment that Mr. Celentano estimates for these facilities (\$21 million) appears to reasonable. His estimates are generally in line with cost estimates for these facilities that I have seen in other telecommunications proceedings.
21. Mr. Celentano developed his cost estimates for STP/SCP pairs on the basis of discussions with equipment manufacturers and software developers who are involved in the provision of SS7 networks and related applications. The discussions focused on STP/SCP investment on a per-site basis (\$3 million per STP/SCP site) and the manufacturers and developers generally did not disaggregate STPs from SCPs. Nevertheless, one publicly available source of data of which I am aware would set the common investment required (in 1997) for a minimum capacity STP pair that serves a minimum number of links at \$1,000,000

¹⁰ Using 1997 data, my previous estimate of 6.68 billion DA calls in the United States divided by total Business, Residential and Special Access lines in 1997 (194 million) divided by 12 equals only 2.9 DA calls per subscriber per month. Eliminating all Special Access lines from this calculation (33 million) raises this figure to 3.45 DA calls per subscriber per month.

per pair.¹¹ To this investment, one would need to make additional expenditures for facilities such as the transmission equipment required for link termination but an overall figure of \$8.4 million (based on 1997 costs) for seven STP pairs does not seem out of place.

22. Assessing the required investment in incremental SCPs on the basis of public data is somewhat more difficult. SCPs provide the processing power used to conduct data base queries in
23. SS7 environment. The public data source noted in the previous paragraph included an approximate value for SCP investment per transaction per second as of 1997.¹² This value (\$20,000 per transaction per second) was based on a 1990 study by AT&T that had been adjusted downward to a 1997 value based on the engineering judgement of the authors. While there is little doubt that computer processing costs have fallen dramatically since 1990, there is room for disagreement as to how much these costs have declined, particularly since 1997. Nevertheless, even this unadjusted 1997 figure can be used to provide basic corroboration for Mr. Celentano's cost estimates.
24. In his Affidavit, Mr. Celentano explains that, based on his traffic assumptions, (including the assumption of 5 DA calls per subscriber per month) presubscribed DA calling through a 30,000 line switch would generate 0.416 transactions per second at the local switch level.¹³ Assuming 200,000,000 total lines in the United States, this transaction load would sum to 2800 transactions per second for the whole country.¹⁴ Assuming a (1997) cost estimate of \$20,000 per transaction per

¹¹ HAI Model Release 5.0a, Inputs Portfolio, January 27, 1998, para. 4.7.4, page 104.

¹² *Id.*, para. 4.7.14, page 105.

¹³ Mr. Celentano's estimates of STP/SCP investment actually include some excess capacity. Mr. Celentano believes that demand for DA calls is currently less than 1 billion calls per month and that his planning estimate of DA volume includes some projected future growth. For this reason, it is likely that some of the STP/SCP investment described above would not be required immediately and could be added at lower prices as DA demand increased to the projected level.

¹⁴ 200,000,000 divided by 30,000 times .416 equals 2,773.34.

second, this load would require total SCP investment in the amount of \$56 million. Adding the STP investment of \$8.4 million would bring total STP/SCP investment for 411 presubscription to a maximum amount of \$64.4 million in 1997.

25. But Mr. Cetentano is relying on current cost figures, not 1997 estimates, and there is no doubt that the costs of processing and the costs of peripherals have fallen significantly since 1997. In its 1999 U.S. Industry & Trade Outlook, the U.S. Department of Commerce reported that prices for fully configured corporate desk top computers with Pentium II processors fell from \$2,000 in the second half of 1997 to \$1,200 by early 1998.¹⁵ The same source also indicated that prices for a wide range of peripherals fell to record lows in 1998. Given the dramatic price reductions that have affected all sectors of the computer industry since 1997, it is clearly appropriate to apply an additional discount to the 1997 SCP cost figures cited above. For example, we might assume that only one-half of the decline in desk top computer prices that was experienced over a half year period in 1998 should be applied as an annual decline in SCP prices since 1997. We might also assume that this rate of decline in prices continued for SCPs through 2000. Under these assumptions, the investment cost per transaction per second for SCPs would have fallen to \$6,860 per transaction per second by the year 2000.¹⁶ At this price level for SCPs (and conservatively assuming no reduction in STP costs from 1997 levels) the current costs of seven STP/SCP pairs would be \$27.6 million.¹⁷ These figures approximately match the estimates presented by Mr. Celentano.

¹⁵ U.S. Department of Commerce, *U.S. Industry and Trade Outlook '99*, page 27-2.

¹⁶ \$20,000 times .70 times .70 times .70 equals \$6,860.

¹⁷ \$6,860 times 2800 transactions per second plus \$8,400,000 in STP costs equals \$27.6 million.

26. In assessing the DA presubscription proposal, it is also critical to recognize that the cost figures presented by Telegate reflect the total investment needed to implement DA presubscription throughout the United States. As noted earlier, Mr. Celentano's calculations assumed an overall calling load of 1 billion DA calls per month. The total estimated capital investment needed to introduce DA presubscription was estimated at \$22.8 million (\$21.0 million in STP/SCP investment and \$1.8 million in initial data base development, data base CPU updating and wide area networks). Assuming that one chose to recover all of this capital investment in only one month, these figures work out to 2.28 cents per DA call or 11.4 cents per subscriber. A more reasonable investment recovery period of three years would yield much lower costs in the range of 0.063 cents per DA call or 0.317 cents per subscriber per month.¹⁸
27. Mr. Celentano also projected annual expenses for STP/SCP operations and for wide-area networks in the amount of \$7.6 million per year. Adding these annual expenses to the investment figures noted above approximately doubles the costs on a per call or per subscriber basis.¹⁹ Accordingly, total cost would rise to 0.126 cents per DA call (\$0.00126) or to .634 cents per subscriber per month (\$0.00634). These figures are extremely reasonable, given the size of the DA market in the United States that would now be opened to direct competition through DA presubscription.

¹⁸ For example, investment of \$22.8 million divided by 1 billion calls per month, divided by 12 months and divided by 3 years yields \$0.00063 per call or 0.063 cents per DA call.

¹⁹ \$7.6 million is approximately equal to the annual depreciation expenses associated with an investment of \$22.8 million that is depreciated over three years. Thus, adding this expense approximately doubles the annual capital charge.

28. Finally, it is important to recognize that the investment in STPs and SCPs needed to implement DA presubscription is incremental investment only. DA presubscription will simply add a certain amount of additional signaling traffic to the overall quantity of signaling traffic that the ILECs will generate through the provision of all of their other SS7-rich services. Mr. Celentano estimates that presubscribed 411 would add approximately 2% to the overall signalling traffic now handled by the ILECs.

IV. Ballot and Allocation Procedures

29. As part of its proposal to implement DA competition in the United States, Telegate is recommending that the FCC require the ILECs to adopt a ballot and allocation procedure for DA that is similar to the process used to select presubscribed IXCs during the ILEC's conversion of central offices to equal access in 1985. In its Memorandum Opinion and Order adopted May 31, 1985 (and released on June 12, 1985) in CC Docket No. 83-1145, Phase I, the FCC concluded that, "For the reasons discussed below, we find the current default procedure (for the selection of a primary IXC) to be unreasonable. We are prescribing an allocation plan that is effective May 31, 1985."²⁰
30. In the 1985 proceeding, the FCC considered the ballot and allocation procedure for equal access conversion that had already been implemented by Northwestern Bell ("NWB") early in 1985. The United States Department of Justice ("DOJ") also reviewed this plan and the plans proposed by the other RBOCs. On the basis of its review, DOJ gave four reasons why the NWB ballot and allocation plan should be adopted for all carriers. "First, NWB's experience has proved that a viable and reasonable alternative to default exists. Second, the MFJ does not prohibit the Commission from mandating an alternative to default as long as the

²⁰ FCC Release No. 85-293, Memorandum Opinion and Order, CC Docket No. 83-1145, Phase I, Released May 31, 1985, para. 18.

implementation of equal access is not delayed. Third, a ballot and allocation plan such as NWB's is more consistent with the requirements of the Communications Act that a common carrier is forbidden 'to make or give undue or unreasonable preference or advantage to any particular person.' Fourth, DOJ has concluded from its review of statistics submitted by the RHCs that allocation is, in fact, cheaper to implement than the current default procedures."²¹

31. It should be noted that the low cost nature of the NWB plan was of particular interest to DOJ. In its comments to the Commission, DOJ stated that "Northwestern Bell estimates that the cost of its ballot/allocation procedure, including the mailings, tabulation of ballots and orders, allocation of lines for which no choice was made, and creation of the tape necessary to program the switches, to be approximately \$0.75 per line."²²
32. While certain of these costs, most notably postage, have increased since 1985, the magnitude of such cost increases is not large. In 1985, the postage rate in effect for a 1 oz. First Class letter was \$0.22.²³ In 2000, the current postal rate is \$0.33.²⁴ Thus, over the last fifteen years, mailing costs for a first class letter have increased by only 50%. Applying this figure to NWB's total cost per line for ballot and allocation would yield a current cost estimate of \$1.13 per line. Since other balloting costs such as the computing costs to tabulate ballots, have clearly fallen since 1985, this figure represents a reasonable estimate of the current costs to implement a ballot and allocation program today. A one-time ballot and allocation cost per line of \$1.13 is clearly modest in this context. The FCC's 1985 adoption of ballot and allocation procedures for equal access coincided with the beginning of a sharp decline in the market share held by AT&T in the interLATA

²¹ *Id.*, para. 8.

²² Comments of the United States Department of Justice, CC Docket No. 83-1145, Phase I, April 8, 1985, page 13.

²³ Statistical Abstract of the United States, 1987, Table 904.

²⁴ The Postal Service has proposed to increase this rate to \$0.34 but any increase would not take place until late 2000 at the earliest.

calling market. It is useful to consider what might have happened had the FCC not acted as it did. One might expect that AT&T's share of interLATA traffic would not have fallen as quickly or as dramatically as it did. The final section of this Affidavit attempts to address this likely outcome.

33. Table I attached herewith shows AT&T's actual market shares from 1985 through 1990. The data in Table I are taken from FCC statistics and they reflect two alternative measures of AT&T's market share (access minutes and toll service revenues). As shown in Table I, AT&T's share of the long distance market has declined dramatically since 1985.
34. In contrast with Table I, Table II does not reflect actual market shares for AT&T. The data on Table II are taken from a securities analyst's reports on AT&T that was released on May 21, 1985, ten days before the adoption of the MO&O described above.²⁵ This report (by Kidder Peabody & Co.) was prepared at a time when the equal access procedures for interLATA services were soon to be adopted and investors had obvious concerns regarding the future prospects for AT&T under those procedures. It was clearly recognized in this time frame that the procedures under which the FCC would allow subscribers to select their presubscribed carrier would matter a great deal. Kidder Peabody attempted to quantify these uncertainties by predicting AT&T's likely market share under alternative procedures for equal access conversion. Table II shows the alternative AT&T market shares that Kidder Peabody predicted in 1985.
35. Scenario I in Table II reflected a continuation of the status quo, namely that AT&T would remain the default carrier for interLATA services even after equal access conversion. Under this "base case" assumption, AT&T's market share was expected to decline only slightly from 1985 to 1990 (85.28% to 81.34%).

²⁵Governali, F.J., et al, Kidder Peabody & Company, Incorporated, *Telephone Industry Report*, Investext, 509170, May 21, 1985.

36. Scenario II in Table II shows the effect of a different implementation plan that was less favorable to AT&T. In Scenario II, subscribers would be sent equal access ballots but no allocation of non-respondent subscribers away from AT&T would be required. As shown in this scenario, AT&T's expected market share under a "ballot-only" plan was predicted under two sets of additional assumptions. Under assumptions of a "low presubscription rate - high portion choosing AT&T," AT&T's market share in 1990 was expected to fall to 77.59% with ballots only. Under assumptions of a "high presubscription rate - low portion choosing AT&T," AT&T's market share in 1990 was predicted to reach 62.88% in 1990. Under either set of assumptions in the ballot-only Scenario, AT&T's expected market share in 1990 was predicted to be considerably lower than if no change in equal access procedure had been introduced.
37. Scenario III shows the predicted effects of ballot and allocation procedures on AT&T's market share in 1990. With both ballot and allocation procedures in place, AT&T's 1990 market share was predicted to be between 69.50% - "low presubscription rate - high portion choosing AT&T" and 61.55% - "high presubscription rate - low portion choosing AT&T."
38. Table III combines the 1990 statistics from Table I and Table II. As shown in Table III, with no change in equal access procedures, AT&T's predicted market share in 1990 (81.34%) would have been 16.3 share points higher than AT&T's actual share in the same year. With ballots only, (Scenario II) AT&T's predicted market share would have been as much as 12.59 share points higher than AT&T's actual share and possibly as low as 2.12 share points lower than actual. With the adoption of ballots and allocation procedures (Scenario III), AT&T's predicted market share in 1990 would have been as much as 4.5 share points higher than actual and possibly as low as 3.45 share points lower than actual. Recall that in 1985, the FCC decided to adopt ballot and allocation procedures analogous to those used by NWB. Thus, not surprisingly, the Scenario III assumptions

developed by Kidder Peabody proved to be the most accurate predictors of the actual decline in market share experienced by AT&T from 1985 to 1990.

39. These data from the past have clear relevance to the policy questions at issue in this proceeding. The FCC must adopt the best implementation plan for DA presubscription. As was the case for AT&T prior to equal access, the ILEC's now possess an overwhelming market presence in the provision of the local DA services now offered under 411. In addition, as with equal access, the market presence of the ILECs in DA results not from their competitive success but from historical accident. Competition has succeeded in interLATA markets at least in part because in 1985 the FCC decided not to let inertia govern customer choice. The same issue faces the Commission in the emerging market for DA services. The best way for the Commission to jump start competition in DA services is to implement a ballot and allocation procedure that will combine customer choice with the elimination of undue and undeserved preferences to the ILECs. In Telegate's view, a ballot and allocation solution represents the best implementation plan for DA presubscription in the coming months.

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Background	Born in 1951 in Jersey City, New Jersey. Attended Catholic Parochial Schools. Married, 1978 to the former Marilyn Levine. Two Children: Jessica Leigh (1981), Andrea Jean (1988)
Education	B.A. (Economics) Boston College, 1973 M.B.A. George Washington University, 1975
Present Position	Principal Economists Incorporated
Previous Employment	Senior Consultant, Snavelly, King & Associates Inc. (1975-1983)
Consulting Specialties	Development and provision of expert witness testimony in connection with economic, financial and accounting issues for regulated industries including communications, energy and postal concerns. Economic and financial consulting and expert witness testimony in antitrust, contract and bankruptcy litigation. Particular emphasis on the estimation of lost profit damages. Economic analysis of international trade issues relating to media and copyright industries.

Books

International Trade in Computer Software, Stephen E. Siwek and Harold W. Furchtgott-Roth, Quorum Books, Westport, Connecticut, London, 1993, ISBN: 0-89930-711-6.

International Trade in Films and Television Programs, (Steven S. Wildman and Stephen E. Siwek), American Enterprise Institute/Ballinger Publishing Company, Cambridge, Massachusetts, 1988, ISBN:0-88730-240-8.

Papers and Articles

"Telecommunications and Entertainment: Trade in Films and Television Programming" (with Steven S. Wildman) presented at *Trade in Services and the Uruguay Round Negotiations*, the Civils, London, England, July 8, 1987 and Centre D'Etudes Pratiques De La Negociation Internationale, Geneva, Switzerland, July 10, 1987.

"The Privatization of European Television: Effects on International Markets for Programs" (with Steven S. Wildman), *Columbia Journal of World Business*, Vol. XXII, No. 3, Fall 1987.

"Europe 1992 and Beyond: Prospects for U.S. Film and Television Employment" presented at *EC 1992: Implications for U.S. Workers*, U.S. Department of Labor, Bureau of International Labor Affairs and The Center for Strategic and International Studies, Washington, D.C., March 19, 1990.

"The Dimensions of the Export of American Mass Culture" presented at *The New Global Popular Culture*, American Enterprise Institute for Public Policy Research, March 10, 1992. Broadcast on "C-Span," reported in AP Wire Service, *Business Week*, *The American Enterprise*, follow-up radio interview etc.

"Competing with Pirates: Economic Implications for the Entertainment Strategist," (with Harold Furchtgott-Roth) *The Ernst & Young Entertainment Business Journal*, Volume 3, 1992, P. 18.

**Papers and
Articles
(continued)**

"The Economics of Trade in Recorded Media Products in Multilingual World: Implications for National Media Policies," (with Steven S. Wildman) in *The International Market in Film and Television Programs*, Ablex Publishing Corporation, Norwood, New Jersey, 1993, ISBN: 0-89391-545-9.

"Changing Course: Meaningful Trade Liberalization for Entertainment Products in GATS" Presented at *World Services Congress* 1999, November 1, 1999.

**Selected
Studies**

Copyright Industries in the U.S. Economy, by Stephen E. Siwek and Harold W. Furchtgott-Roth, for the International Intellectual Property Alliance, November 1990.

Copyright Industries in the U.S. Economy: 1977-1990, by Stephen E. Siwek and Harold W. Furchtgott-Roth, for the International Intellectual Property Alliance, September 1992.

The U.S. Software Industry: Economic Contribution in the U.S. and World Markets, by Stephen E. Siwek and Harold W. Furchtgott-Roth, for the Business Software Alliance, March 1993.

Copyright Industries in the U.S. Economy: 1993 Perspective, by Stephen E. Siwek and Harold W. Furchtgott-Roth, for the International Intellectual Property Alliance, October, 1993.

Copyright Industries in the U.S. Economy: 1977-1993, by Stephen E. Siwek and Harold W. Furchtgott-Roth, for the International Intellectual Property Alliance, January 1995.

Billing and Collection for 900-Number Calls: A Competitive Analysis, by Stephen E. Siwek and Gale Mosteller for the Billing Reform Task Force, September, 1999.

**Continuing
Legal
Education
Programs**

Panelist, *Basic Antitrust Law*, D.C. Bar/George Washington University National Law Center

Panelist, *Monopolization Issues Affecting Computer Software*, D.C. Bar, Antitrust, Trade Regulation and Consumer Affairs Section, June 21, 1994.

Other

Panelist, *The Economics of Counterfeiting: A Supply and Demand Look into this Multi Billion Dollar Problem*, International Anti-Counterfeiting Coalition, Annual Conference, May 21, 1999.

Moderator, *Economic Loss Panel*, International Anticounterfeiting Coalition, Fall Meetings, Washington, D.C. November 14, 1994.

COURT TESTIMONY AND APPEARANCES

Jurisdiction	Case	Subject
U.S. District Court for Eastern District of Virginia Alexandria Division	Eden Hannon & Co. v. Sumitomo Trust & Banking Co. (USA) Civil Action No. 89-0312A	Analysis of Financial Models, Cash Flow Analysis
Circuit Court for Pinellas County, Florida	Home Shopping Network Inc. v. GTE, GTE FLA., Inc. and GTE Communications Corp. CT. Civ. 87-014199-7	Relevance of Planning & Budgeting Reports to the Analysis of Damages
U.S. District Court for Western District of Oklahoma	Banner Industries, Inc. v. Pepsico, Inc. CIV-85-449-R	Financial Plans Financial Viability (Deposition Testimony Only)
Circuit Court for Baltimore City	Pulse One Communications Inc. v. Bell Atlantic Mobile Systems Inc. Case No. 90108057/CC112199	Damages (Deposition Testimony Only)

COURT TESTIMONY AND APPEARANCES (continued)

Jurisdiction	Case	Subject
Supreme Court of the State of New York County of New York	Scandinavian Gourmet Provisions, d/b/a Fredricksen & Johannesen v. Jurgela, aka Al Jurgela, aka Constantine Jurgela, aka C.R. Jurgela, Valco Equities Ltd. Charles Earle, Valco Development Corp., Chase Manhattan Bank, Clinton Barrow, Franklin Investors, and Harold L. Goerlich Index No. 22891/90	Damages
Chancery Court of Davidson County, Tennessee	MCI Telecommunications Corp. v. Dudley W. Taylor etc. et. al. No. 88-1227-III	Tax Treatment of Telephone Access Charges
Superior Court of the District of Columbia Civil Division	Robert H. Kressin, General Partner, Cellular Phone Stores Limited Partnership v. Bell Atlantic Mobile Systems, Inc. Civil Action No. 02258-91	Damages, Cellular Telephone Industry
Court of Common Pleas First Judicial District of Pennsylvania	Shared Communications Service of 1800 - 80 JFK Boulevard Inc. v. Bell Atlantic Properties, Inc. et. al. September Term 1900, No. 775	Damages, Telecommunications Industry
Superior Court of New Jersey, Law Division, Essex County	Bell Atlantic Network Services, Inc. v. P. M. Video Corp., Docket No. L- 6602-91	Damages (Deposition Testimony Only)
U.S. District for the District of Columbia	FreBon International Corp. v. Bell Atlantic Corp. et al. Civil Action No. 94-324	Damages (Deposition Testimony Only)

COURT TESTIMONY AND APPEARANCES (continued)

Jurisdiction	Case	Subject
U.S. District Court for the Eastern District of New York	Universal Contact Communications Inc. v. PageMart Inc.	Damages (Deposition Testimony Only)
U.S. District Court for District of Maryland	Integrated Consulting Services, Inc. v. LDDS	Damages (Deposition Testimony Only)
U.S. District Court Eastern District of Virginia Alexandria Division	Mexinox, S.A. et al. v. Acerinox	Antitrust Damages (Deposition Testimony Only)
U.S. District Court Eastern District of North Carolina	Broad Band Technologies, Inc. v. General Instrument Corp.	Patent Damages (Deposition Testimony Only)
International Chamber of Commerce International Court of Arbitration	WorldSpan L.P. v. Abacus Distribution Systems Pte Ltd. And Others Case No. 9833/FMS	Damages and License Valuation
US District Court for Western District of Washington at Seattle Case No. C97-10732	Arbitration between Electric Lightwave, Inc., Plaintiff v. USWest Inc., Defendant	Damages

REGULATORY COMMISSION TESTIMONY AND APPEARANCES

Commission	Docket No.	Subject
Arizona	U-3021-96-448 et al.	Cost of Local Service
Utah	94-999-01	Investigation in to colocation and expanded interconnection
Connecticut	96-02-22	Cost of Local Service

**REGULATORY COMMISSION TESTIMONY AND APPEARANCES
(continued)**

Commission	Docket No.	Subject
Wyoming	70000-TR-96-323	US WEST Phase II Price Regulation Plan
Pennsylvania	1-00960066	Financial Analysis
Pennsylvania	A-310203 F0002 et al.	Cost of Local Service
West Virginia	96-1516-T-PC et al.	Cost of Local Service
Minnesota	P-442, 5321 et al.	Generic Investigation of US West's Communications Costs
Iowa	RPU-96-9	Generic Investigation of US West's Communications Costs
Illinois	80-0511	Rate Base, Expenses, Forecasting
Maryland	7222	Power Plant Certificate Issues
District of Columbia*	777	Telephone Advertising and Parent Company Transactions
Illinois	82-0082	Gas Rate Design
Pennsylvania	M-810294	Energy Costs and Rate Design
Pennsylvania	R-822169	Nuclear Plant Economics
New Jersey	8011-827	Water and Sewerage Forecast
District of Columbia	798	Telephone Price Elasticity, Centralized Costs, Working Capital
California	83-06-65	Telephone Access Charges
Illinois	83-0142	Telephone Access Charges

*Prefiled but not sworn. Case Settled April, 1982.

REGULATORY COMMISSION TESTIMONY AND APPEARANCES
(continued)

Commission	Docket No.	Subject
U.S. International Trade Commission	731-TA-457	Handtools from People's Republic of China
U.S. Postal Rate Commission	R 83-1	Financial Viability for Electronic Mail Service
U.S. Postal Rate Commission	R 84-1	Class Revenue Requirement, Demand Projections
U. S. Postal Rate Commission	R 87-1	Pricing of Third Class Mail
U.S. Postal Rate Commission	R 90-1	Pricing of Third Class Mail
Maryland	6807, Phase I	Utility Forecasting
New Jersey	762-194	Utility Forecasting
District of Columbia	685	Utility Forecasting
District of Columbia	827	Econometric Demand Modeling for Coin Telephone Service
Maryland	7149	Utility Forecasting & Promotional Activities
Maryland	7300	Utility Forecasting
Maryland	7348	Utility Forecasting
Maryland	7427	Utility Forecasting
District of Columbia	737	Utility Forecasting
Maryland	7305	Telephone Advertising
Maryland	7163	Service Terminations
Maryland	7070	Utility Promotional Activities
District of Columbia	729	Telephone Advertising & Parent Company Transactions

REGULATORY COMMISSION TESTIMONY AND APPEARANCES
(continued)

Commission	Docket No.	Subject
Maryland	6807, Phase II	Utility Emergency Procedures
Maryland	7467	Telephone Advertising, Parent Company Transactions
Maryland	7466	Gas Utility Advertising
New Hampshire	79-18	Industrial Conservation
Maryland	7236	Utility Promotional Activities
District of Columbia	834	Electric Utility Load Management Evaluation
California	85-01-034	Telephone Rate Design, Cost of Service
Massachusetts	86-213	Paging Company; Financial Viability, Pricing Analysis
District of Columbia	869	Fuel Price and Electric Demand Forecasts
Louisiana	U-17949 B	Customer Owned Coin Operated Telephones
New Jersey	TO92030358	Yellow Pages/Directory Services
Delaware	41	Development of Rules for the Implementation of Price Cap Regulation
Utah	94-999-01	Cost of Local Service
Connecticut	97-04-10	Cost of Local Service
New Mexico	97-35-TC	Cost of Local Service
Maine	97-505	Cost of Local Service

**REGULATORY COMMISSION TESTIMONY AND APPEARANCES
(continued)**

Commission	Docket No.	Subject
Vermont	5713	Cost of Local Service
New York	94-C-0095	Access Charges/ Financial Analysis
New Jersey	TX95120631	Access Charges/ Financial Analysis
New Hampshire	DE97-171	Cost of Local Service
Colorado	97F-175T	Access Charges/Financial Analysis
Utah	97-049-08	Access Charges/Financial Analysis
Rhode Island	2681	Cost of Local Service
Arkansas	99-015-U	Arbitration of Interconnection Rates

WRITTEN TESTIMONY ONLY

Jurisdiction	Case	Subject
U.S. District Court for Southern District of New York	In Re "Apollo" Air Passenger Computer Reservation System (CRS) MDL DKT. No. 760 M-21-49-MP	Liquidated Damages, Actual Damages
Supreme Court of the Republic of Palau	Orion Telecommunications, Ltd. v. Palau National Communications Corporations, Civil Action No. 835-88.	Lost Profit Damages

WRITTEN TESTIMONY ONLY (continued)

Jurisdiction	Case	Subject
U.S. District Court for the District of Columbia	A&S Council Oil Company, Inc., et al. v. Patricia Saiki, et al. Civil, Action No. 87-1969-OG	Damages
U.S. District Court for Eastern District of Texas	R & D Business Systems, et.al. v. Xerox Corp. Civil Action No. 2: 92-CV-042	Valuation of Non- Monetary Provisions of Stipulation of Settlement
U.S. District Court Eastern District of Michigan, Southern Division	Little Caesar Enterprises, Inc. v. Gary G. Smith, et al. Civic No. 93-CV-73354-DT	Class Certification (Joint Declaration with Philip Nelson)
FCC	Various	Cellular Radio Pricing: Critique of Competing Applications for Cellular in Seattle, Miami, Denver and Detroit
FCC Pricing	83-1145	Directory Data Base and Access
U.S. District Court for the District of Columbia	American Association of Cruise Passengers v. Host Marriott Corp. et al.	Damages
U.S. District Court for Eastern District of Texas	Jason R. Searcy et al. v. Philips Electronics North America Corp. et al. Consolidated Civil Action No. 1:95-CV 363,364.	Damages
U.S. District Court for Eastern District of Texas Beaumont Division	USA ex. rel. Lloyd Bortner v. Phillips Electronics	Penalties under False Claims Act

SELECTED OTHER MATTERS

Jurisdiction	Case	Subject
United States of America v. United Kingdom of Great Britain and Northern Ireland	U.S. - U.K. Arbitration Concerning Heathrow Airport User Changes	Participant in Negotiations Leading to Settlement of Arbitration and Related Litigation

Table – 1

AT&T**Actual Market Shares**

	Share of Interstate Switched Access Minutes¹	Share of Total Toll Service Revenue (LD Carriers Only)²
1985	79.8%	86.3%
1986	76.8%	81.9%
1987	72.0%	78.6%
1988	68.5%	74.6%
1989	64.9%	67.5%
1990	62.6%	65.0%
1991	62.2%	63.2%
1992	60.5%	60.8%
1993	60.2%	58.1%
1994	58.5%	55.2%
1995	55.5%	51.8%
1996	52.3%	47.9%
1997	51.6%	43.8%
1998	52.0%	43.1%

¹ *Trends In Telephone Service*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, September 1999, Table 11.1.

² *Id.*

Table 2

Kidder Peabody & Co's Predicted Market Shares for AT&T³

Scenario I – No Change in Equal Access Procedures

1985	85.28%
1986	83.90%
1987	82.40%
1988	81.62%
1989	81.46%
1990	81.34%

Scenario II – Balloting Required, But No Change in Default Procedures

	II-A Low Presubscription Rate High Portion Choosing AT&T	II-B High Presubscription Rate Low Portion Choosing AT&T
1985	83.88%	80.64%
1986	80.43%	71.25%
1987	78.33%	65.45%
1988	77.68%	63.60%
1989	77.63%	63.15%
1990	77.59%	62.88%

**Scenario III – Equal Access Procedures Change in Line with North
Western Bell Approach (Default Traffic is Allocated)**

	III-A Low Presubscription Rate High Portion Choose AT&T	III-B High Presubscription Rate Low Portion Choose AT&T
1985	81.95%	80.20%
1986	75.00%	70.00%
1987	70.95%	63.95%
1988	69.85%	62.25%
1989	69.65%	61.85%
1990	69.50%	61.55%

³ Kidder Peabody & Co., Governali, F.J. et al, Telephone Industry Report, *The Outlook For The Long Distance Market: The Implementation of Equal Access and Its Investment Implications*, May 21, 1985.

Table 3

**Comparison Of
Actual & Predicted Market shares in 1990
For AT&T**

Scenario I – No change in Equal Access procedures

1990 Predicted	1990 Actual	Diff
81.34%	65.0%	16.3%

**Scenario II – Balloting Required, But No Change in Default
Procedure**

	1990 Predicted	1990 Actual	Diff
II-A	77.59%	65.0%	12.59%
II-B	62.88%	65.0%	(2.12%)

**Scenario III – Equal Access Procedures Change in Line with
NWB Approach (i.e. Default Traffic is Allocated)**

	1990 Predicted	1990 Actual	Diff
III-A	69.50%	65.0%	4.5%
III-B	61.55%	65.0%	(3.45%)

I hereby declare under the penalties of perjury that the foregoing is true and correct and that this declaration is executed on March 9, 2000 at Washington, D.C.



Stephen E. Siwek

CERTIFICATE OF SERVICE

I, Robert L. Galbreath, hereby certify that copies of the attached Ex Parte Presentation of Telegate Inc., were delivered March 10, 2000, via 1st Class Mail, postage prepaid, to the following parties:

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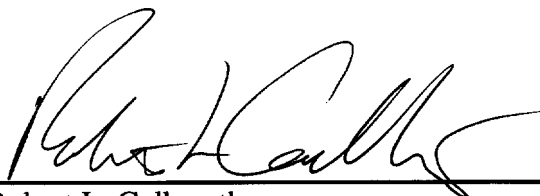
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